

University of Sussex

Flexible Working Procedure

1 Introduction

- 1.1 The flexible working procedure gives all staff the right to request flexible working and places a duty on managers to properly consider such requests through a structured process. This flexible working procedure complies with the statutory right to request flexible working¹ and takes account of the ACAS 'Code of Practice for handling requests to work flexibly in a reasonable manner' and the associated ACAS guide.²
- 1.2 The University of Sussex (the "University") recognises the potential benefits to properly managed flexible working arrangements, for example, to increase the ability of the organisation to attract and retain skilled staff; to raise staff morale; to decrease absenteeism; and to react to changing market conditions more effectively. Flexible working allows individuals the opportunity to greatly improve their ability to balance home and work responsibilities. It may also assist the University to align staff working patterns with its business needs.

2 Eligibility

- 2.1 All staff have the right to make a request. If a request is refused all staff have the right to make a further request after 12 months.

3 Flexible Working Arrangements

- 3.1 There is scope to apply for a wide variety of different types of working pattern. Examples are to:
- change the hours worked, for example:
 - job sharing
 - part time working
 - change the times when staff are required to work, for example:
 - staggered hours (where staff in a work area have different start, finish and break times – often as a way of covering longer opening hours)
 - flexitime
 - compressed working (where staff can work across any five days of the week).
- 3.2 Details of commonly used flexible working are provided in Flexible Sussex: - Embracing the University's Flexible Working Policy.

¹ Children and Families Act 2014

² Handling requests to work flexibly in a reasonable manner: an ACAS guide

4. Flexible Retirement

- 4.1 Flexible retirement is available under certain pension schemes, for example the Universities Superannuation Scheme (USS), and allows individuals to draw a portion of their pension and tax-free benefits while they continue working at reduced hours and salary. The University has to agree that a member of staff can flexibly retire, and staff who wish to flexibly retire should therefore use this procedure to make a request. Flexible retirement is not available under all of the University's pension schemes, and where it is available, is governed by individual pension scheme rules. Staff who are considering requesting flexible retirement should initially discuss their plans with the Pensions Manager in HR.

5 Prioritising Competing Requests

- 5.1 Where a manager receives, or anticipates that they may receive, a flexible working request from more than one member of staff and is unable to accommodate every request due to the impact this would have on the business, the following groups will have priority over other staff seeking flexible working arrangements:
- i). A member of staff due to go on, already on, or recently returned from, maternity, adoption or additional paternity leave.
 - ii). A member of staff who is considered to be disabled within the meaning of that term under the Equality Act 2010.
 - iii). A member of staff who is a parent of a child under 17 or a disabled child under 18.
 - iv). A member of staff who is a carer of an adult in need of care (e.g. a spouse, partner, civil partner, relative, or a person who is none of the above but who lives at the same address as the member of staff).
 - v). A member of staff who has the right not to be discriminated against under the Equality Act 2010, where the act of refusing a flexible working request could amount to direct or indirect discrimination against him/her.
- 5.2 For all flexible working requests made by staff who do not fall into one of the priority groups detailed in 5.1 above, the manager is not expected to make value judgements about how deserving a request is. The manager needs to assess each case against the needs of the business to decide whether a request can be accommodated.
- 5.3 Where a manager is unable to grant a flexible working request because they already have a number of staff on flexible working patterns, and considers that any further flexible working arrangements would adversely affect the business, the manager should speak to their existing staff who work flexibly to see if any of them is prepared to change their working pattern in order to allow the new request to be accommodated. It is often the case that individuals' circumstances change and some staff may welcome a different working pattern. When making a flexible working request, a member of staff needs to understand that the fact that a colleague's similar request for flexible working has previously been granted, will not have any bearing on the outcome of their own request.
- 5.4 Where a manager receives more than one similar flexible working request at the same time, and is unable to agree to all of the requests, it may be helpful to meet with all of the individuals who have made a request to see if there is any room for adjustment or

compromise before reaching a decision. If this is not an option, and none of the requests falls into the categories listed as priorities under 5.1 above, a manager may have to randomly select which requests can be granted.

5.5 Where a member of staff makes a flexible working request in order to take up employment elsewhere, the individual is required under their conditions of employment to obtain the consent of their Head of School or Professional Services area to undertake this additional employment. For such requests, managers are required to:

- i). Consider whether the request to undertake the additional employment can be agreed. This will involve consideration of whether there may be a conflict of interest, and an assessment of working hours to ensure that they are not in conflict with the maximum working hours specified under the Working Time Regulations.
- ii). Consider whether the flexible working request can be accommodated.
- iii). Advice should be sought from an HR Adviser.

6 Procedure for Applying for Flexible Working Arrangements

6.1 Making a Request

When making a formal request for flexible working, a member of staff must include the following information:

- i). The request must be made in writing to the individual's manager. The Flexible Working Application Form may be used to make a request, available on the web at:
<http://www.sussex.ac.uk/humanresources/personnel/forms/familyfriendlyforms>
- ii). The date of the request, the change to working conditions/working pattern being sought, and when they would like the change to come into effect.
- iii). If the member of staff is a member of one of the priority groups listed in 5.1, they should specify that this is the case, and to which group they belong.

NB: Any change to a member of staff's working pattern will be permanent unless agreed otherwise. There is no right for the member of staff to revert back to the previous working pattern if they have requested a permanent change and any such request would be treated as a new application.

6.2 Considering the Request

6.2.1 The University has a legal duty to consider all requests and establish whether the desired work pattern can be accommodated within the needs of the business. Managers should consider each request objectively on this basis, and not attempt to judge whether one applicant's need for flexible working is greater than another's, unless one of the requests is from a member of staff from one of the priority areas listed in 5.1. The manager should meet with the member of staff to discuss the request, prior to making a decision unless there is no need to do so and the request can be agreed without further discussion.

6.2.2 Flexible working requests must be dealt with in a timely manner, and managers are expected to have considered and responded to a request within 20 working days of receipt of the request, unless there are reasonable grounds for a longer timescale. The entire process, including any appeal, must be completed within 3 months of first receiving the request, but in all cases the process should be completed as quickly as possible. Any extension of this time limit should be agreed by both parties.

6.3 The Meeting

6.3.1 The meeting is an opportunity to discuss the proposed change in depth and consider how the requested work pattern might benefit the individual and the School or Division. If a manager is unable to accommodate a specific request, they should discuss the possibility of any room for adjustment or compromise with the member of staff, before reaching a decision. The manager and staff member should discuss the application and any proposed variations openly and constructively to reach an agreement.

6.3.2 The meeting should take place in a private setting where the discussion cannot be overheard. The discussion does not have to take place face to face. It can be held on the telephone or some other way provided both parties agree. At the end of the meeting, the manager should give the member of staff an indication of when they will receive confirmation of the decision.

6.3.3 If at the end of this initial meeting, both sides cannot agree on a way forward, they should agree on further actions. This can include scheduling a second meeting following consultation with others to see if any of the issues raised can be resolved. This includes applicants reviewing whether any variation of the original proposal can be accommodated and or/ managers discussing options with their Head of Division or School. Options that can be considered are allowing the staff member to adopt the working pattern for **a trial period** to better assess the impact of the change on the business, rather than rejecting the request outright. If the business reason for the manager feeling unable to approve the application is a planned structural change to the business it may be possible to offer a **temporary arrangement** pending the outcome of this review or change. Processing of a trial or temporary arrangement decision should follow the same procedure outlined in section 6.4

6.3.4 Where such arrangements are put into place, the individual will receive written confirmation of the temporary/trial arrangements, and details of review dates to discuss the impact of the arrangements, and make any further necessary adjustments. Before the end of any trial period or temporary arrangement, the manager should meet with the individual to confirm their decision on the request for a permanent change (see 6.4 below).

6.3.5 If mutual agreement cannot be found then a meeting can be held with a representative from Human Resources present. HR would attend in an advisory capacity to ensure that the procedure is being fairly applied and that the business constraints affecting the application are fully explored and are genuine. Members of staff may be accompanied by a work colleague or trade union representative at this meeting. The companion can make representations on behalf of the member of staff but cannot answer questions on their behalf.

6.3.6 If a manager arranges the initial meeting to discuss the request and the member of staff fails to attend both this and a rearranged meeting without a good reason, the request will be considered to have been withdrawn. The member of staff will be notified of this decision.

6.4 The Decision

6.4.1 After the final meeting, the manager should carefully consider the request looking at all of the evidence provided. The benefits of the requested changes for the member of staff must be considered alongside any adverse business impact of granting the request. In considering a request, a manager must not discriminate unlawfully against a member of staff. A decision will be confirmed to the member of staff in writing as soon as is reasonably practicable after the meeting.

6.4.2 If accepted, the notification should:

- i). Include a description of the new working pattern;
- ii). Set out any changes to the member of staff's terms and conditions;
- iii). State the date from which it takes effect;
- iv). Be dated.

6.4.3 If rejected, the notification should:

- i). Provide clear business reason(s) why the request is refused (see 6.5.4 below);
- ii). Give details of the appeal procedure and the notice period for the appeal;
- iii). Be dated.

6.4.4 The business grounds for rejecting a request must be one of the following:

- i). The burden of additional costs;
- ii). An inability to reorganise work amongst other staff;
- iii). An inability to recruit additional staff;
- iv). A detrimental impact on quality;
- v). A detrimental impact on performance;
- vi). A detrimental effect on ability to meet customer demand;
- vii). Insufficient work during the periods the employee proposes to work;
- viii). A planned structural change(s) to the business.

6.5 Appeals

6.5.1 A member of staff has the right to appeal against a decision to reject a flexible working request. Grounds for appeal should be submitted in writing to the manager's manager (the "relevant manager", copied to the Director of HR, within 10 working days of receiving written confirmation of the decision.

6.5.2 There are no constraints on the grounds under which a member of staff can bring an appeal. Reasons could be, for example:

- i). The member of staff may wish to draw attention to something the manager may not have previously been aware of.
- ii). The member of staff may wish to challenge a fact or facts quoted in the explanation of the organisational reasons for the refusal.
- iii). The member of staff may believe that the request was not considered reasonably in line with the above procedure.

- 6.5.3 The relevant manager (or nominee) is responsible for dealing with appeals promptly and will hold a meeting with the member of staff to discuss the reasons for appeal.
- 6.5.4 The member of staff may be accompanied at the appeal meeting by a work colleague or trade union representative. The companion can make representations on behalf of the member of staff but cannot answer questions on their behalf. A representative from Human Resources will normally be present in an advisory capacity and to keep a formal record of the meeting.
- 6.5.5 If the relevant manager (or nominee) arranges a meeting to discuss the appeal and the member of staff fails to attend both this and a rearranged meeting without a good reason, the appeal will be considered to have been withdrawn. The member of staff will be notified of this decision.
- 6.5.6 The relevant manager (or nominee) will confirm the outcome of the appeal in writing to the member of staff within 10 working days of the appeal meeting. The outcome will either be to:
- i). Uphold the appeal and provide a description of the new working pattern with a start date from which this will take effect: or
 - ii). Dismiss the appeal, stating the grounds for the decision.
- 6.5.7 All requests, including any appeals, must be concluded within a period of three months from receipt of the original request, unless agreed otherwise with the member of staff.
- 6.5.8 The appeal decision is final.

